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SPEECH

OF

HON. JOSEPH L. RAWLINS,

OF UTAH,

IN THE

SENATE OF THE UNITED STATES,

Monday, March 12, 1900.

WASHINGTON.

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On the relations of the Government with the Philippines.

Mr. RAWLINS said:

Mr. PRESIDENT: I ask for the reading of the bill introduced by the Senator from Wisconsin [Mr. SPOONER] and favorably reported to the Senate by the Republican majority of the Committee on the Philippines.

The PRESIDENT pro tempore. The Chair lays before the Senate the bill (S. 2355) in relation to the suppression of insurrection in, and to the government of, the Philippine Islands, ceded by Spain to the United States by the treaty concluded at Paris on the 10th day of December, 1898. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That when all insurrection against the sovereignty and authority of the United States in the Philippine Islands, acquired from Spain by the treaty concluded at Paris on the 10th day of December, 1898, shall have been completely suppressed by the military and naval forces of the United States, all military, civil, and judicial powers necessary to govern the said islands shall, until otherwise provided by Congress, be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion.

Mr. RAWLINS. Mr. President, that is but the "prologue to the swelling act of the imperial theme." I next ask for the reading of the joint resolution introduced by the Senator from Indiana [Mr. BEVERIDGE].

The PRESIDENT pro tempore. The Chair lays before the Senate the joint resolution (S. R. 53) defining the policy of the United States relative to the Philippine Islands. The joint resolution will be read.

The Secretary read the joint resolution, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Philippine Islands are territory belonging to the United States; that it is the intention of the United States to retain them as such and to establish and maintain such governmental control throughout the archipelago as the situation may demand.

Mr. RAWLINS. Mr. President, as a further basis of what I may say, I will read two paragraphs from an English author, Sir Sherston Baker, on international law. He says, on page 60, paragraph 9:

Nevertheless, in order to make such transfer—

Referring to the transfer of territory from one nation to another—

valid, the authority, whether de facto or de jure, must be competent to bind the state; hence the necessity of examining into and ascertaining the powers of the rulers, as the municipal constitutions of different states throw many difficulties in the way of alienations of their public property, and particu-

larly of their territory. Especially in modern times the consent of the governed, express or implied, is necessary before the transfer of their allegiance can regularly take place.

I next read paragraph 12, on page 61. Speaking further upon the same subject, this author says:

But in modern times sales and transfers of national territory to another power can only be made by treaty or some solemn act of the sovereign authority of the state. And such transfers of territory do not include the allegiance of its inhabitants without their consent, express or implied, and a change of sovereignty does not involve any change in the ownership of private property. The new sovereignty, however, acquires the same right of eminent domain as that held by the former.

The same right only as that held by the former.

Mr. President, I next read a paragraph from 1 Kent's Commentaries, on page 178. This great authority uses the following language under the heading of "Territories ceded or acquired:"

With respect to the cession of places or territories by a treaty of peace, though the treaty operates from the making of it, it is a principle of public law that the national character of the place agreed to be surrendered by treaty continues as it was under the character of the ceding country until it be actually transferred.

Mr. President, it has been claimed that the bill introduced by the distinguished Senator from Wisconsin, who is an acute and able lawyer, finds its warrant, at least in its operative parts, as a copy from the act of Congress of 1803, under which what is known as the Louisiana Territory was taken possession of by the United States. In order that we may see precisely to what extent that is true, I ask the Secretary to read in this connection the act of October 31, 1803.

The Secretary read as follows:

CHAPTER I.—An act to enable the President of the United States to take possession of the territories ceded by France to the United States by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof.

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territory ceded by France to the United States by the treaty concluded at Paris on the 30th day of April last between the two nations; and that he may for that purpose, and in order to maintain in the said Territories the authority of the United States, employ any part of the Army and Navy of the United States, and of the force authorized by an act passed the 3d day of March last, entitled "An act directing a detachment from the militia of the United States, and for erecting certain arsenals," which he may deem necessary; and so much of the sum appropriated by the said act as may be necessary is hereby appropriated for the purpose of carrying this act into effect, to be applied under the direction of the President of the United States.

SEC. 2. *And be it further enacted,* That until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion.

Approved October 31, 1803.

Mr. RAWLINS. Mr. President, it will be perceived that that act, passed in 1803, was to enable the President of the United States to effect the transfer and receive the possession of the territory included within the treaty of cession between France and the United States; that it was to enable him to act pending the period of transition from the time of the making of the treaty until there should be a change in the national character of the territory ceded within the principle laid down in the authorities from Kent which I have cited.

That act was to remain in force by its terms only until the expiration of the session of Congress at which it was passed, if not sooner superseded. It was designed to operate only pending the transfer of possession. It was to cease to operate the moment the authority of the United States became established and its jurisdiction completed by the actual transfer of possession. As a matter of fact, that required only from the 31st day of October, 1803, the date of the passage of the act, until the 1st day of October, 1804, a period of eleven months, when that act ceased to operate.

An act similar in purpose, almost identical in terms, was passed in 1819 by Congress to subserve precisely the same purpose and to enable the President to consummate the change of national character in respect to territory obtained by the cession from Spain of Florida. That act by its terms was also limited in its operation until the expiration of the session of Congress at which it was passed. But it took longer in that case to complete the transfer of possession. Spain, in accordance with her usual dilatory habit, was reluctant to give up possession, and it required four years to complete the transfer. In the end it was only accomplished by the forcible action of a portion of our Army under the command of General Jackson, who was appointed as one of the persons to carry out the authority thus vested in the President to enter the territory and to take possession of it. Thereupon that act ended as soon as the authority and jurisdiction of the United States over the Territory of Florida was established.

The Senator from Massachusetts [Mr. LODGE] affirmed that there had been a similar act in regard to the territory ceded by Mexico to the United States by the treaty of July 4, 1848, the treaty of Guadalupe Hidalgo; but I am satisfied that the Senator, upon further examination, will find that no such act was passed in respect to that territory.

Now, Mr. President, the act to which I have made reference, the act of 1803, differed wholly in its purpose from that which has been introduced, the proposed act which is now under consideration. The bill introduced by the Senator from Wisconsin [Mr. SPOONER] provides "that when all insurrection against the sovereignty and authority of the United States in the Philippine Islands, acquired," etc., "shall have been completely suppressed by the military and naval forces of the United States"—that is, when the jurisdiction and authority of the United States have been completely established everywhere in those islands, when there has been accomplished the actual delivery of the possession of that territory, when the national character of those islands has been fixed under the unqualified sovereignty of the United States—then, and then only, is this proposed act to begin to operate.

It will thus be seen that this act is only to take effect at that point when the act of 1803 and the act of 1819 were to cease to operate. This begins in its operation where their operation ended. Their operation was to continue only during the transitory period; this is to begin after that period is ended and is to operate after the full authority of the United States has been established.

Mr. President, the Senator from Wisconsin, I think, in framing this bill perceived the anomalous situation of our Government in respect to the Philippine Islands. As a matter of fact, those people in those islands have never rendered or acknowledged allegiance to us. They therefore are not in rebellion in the technical sense of that word. To-day and during all the time past, at least since February 4 of last year, they have been a belligerent people,

fighting in self-defense against a war of subjugation waged upon them by the authority of the President of the United States, such war never having been directly and expressly declared by Congress.

I take it that the main purpose of this measure is to relieve the situation of that anomaly. I believe its main purpose is to make a declaration or recognition of the existence of a state of war between the United States and the people of the Philippine Islands, because this bill says:

That when all insurrection against the sovereignty and authority of the United States in the Philippine Islands, acquired from Spain by the treaty concluded at Paris on the 10th day of December, 1898, shall have been completely suppressed by the military and naval forces of the United States, etc.

That is a recognition by Congress of the existence of a state of war. It comes to us, it seems to me, in disguise, to subserve that purpose to relieve the Administration from that anomalous position in which it is now found.

Mr. President, the bill introduced by the Senator from Wisconsin [Mr. SPOONER] and the resolution offered by the Senator from Indiana [Mr. BEVERIDGE] constitute, as I understand it, the programme of the Republican party and of the Administration. There have been two notable speeches delivered in the Senate in support of the policy thus outlined. One of those speeches was delivered by the Senator from Indiana [Mr. BEVERIDGE], and the other was delivered last week by the junior Senator from Massachusetts [Mr. LODGE]. Those two speeches were elaborate and carefully prepared, and in elegance of diction and manner of presentation they were all that could be desired. They were heralded to the country with the plaudits of the Administration and its friends. We have a right, I believe, to presume that in those two speeches are found all and the best that can be said in support of carrying out the programme outlined in the bill and in the resolution.

Mr. President, I am opposed to carrying out that programme. No vote of mine will aid in the execution, or rather in the permanent establishment, of this policy. I am opposed to that programme because, as I conceive it, without any disrespect to the opinions of others, I conceive it to be in violation, if carried out, of the fundamental principles on which our free institutions rest. I am opposed to it because it proposes to cut loose from the Constitution of our country. It seems to me not only to be extra-constitutional, but also unconstitutional. It proposes the assumption and exercise of authority and a rule by despotic sway—an authority not conferred by the Constitution or in any grant of power conveyed in the Constitution by the people of the United States.

If this policy is to be carried out, it seems to me it must be by an authority self-assumed and usurped. I am opposed to this programme, because to carry it out, in my judgment, would be unjust, immoral, and a breach of the plighted faith of this nation. I am opposed to it, because, in my judgment, it would be destructive of all the best interests, material, moral, social, and political, both of the people of the United States and of the people of the Philippine Islands. I am opposed to it because it is not growth; it is not progress; it is not expansion; it is reaction and retrogression; it is death to all the highest and best ideals of those who created this Republic.

Mr. President, I am opposed to it because it does not look forward, but carries us back to the old régimes of despotism, to the

principles of the Holy Alliance; to the divine right of kings to rule without the consent of the governed; to overthrow republics; to enslave peoples, and do that against which Monroe fulminated the proclamation of 1822. Those who are opposed to the programme which has been outlined for us can console themselves with the reflection that they have behind them and in aid of them morally all the best thought of the great men whose careers have adorned and made illustrious the history of our country.

Mr. President, I always feel more comfortable—and I am entirely sincere in this statement—when I can find a fulcrum for my argument in the great historic State of Massachusetts. Reference has been made to the illustrious names of men who have had the honor of representing that State in the councils of this nation—John Quincy Adams, Daniel Webster, and others. I desire to invite the attention of the Senate to some remarks made by John Quincy Adams on the Fourth of July, 1821, in this city. Speaking upon the mission of America, he said:

She has seen that probably for centuries to come all the contests of that aceldama, the European world, will be contests between inveterate power and emerging right. Wherever the standard of freedom and independence has been or shall be unfurled, there will her heart, her benedictions, and her prayers be. But she goes not abroad in search of monsters to destroy. She is the well-wisher to the freedom and independence of all. She is the champion and vindicator only of her own. She will recommend the general cause by the countenance of her voice and the benignant sympathy of her example. She well knows that by once enlisting under other banners than her own, were they even the banners of foreign independence, she would involve herself beyond the power of extrication in all the wars of interest and intrigue, of individual avarice, envy, and ambition which assume the colors and usurp the standard of freedom. The fundamental maxims of her policy would insensibly change from liberty to force. The frontlet upon her brows would no longer beam with the ineffable splendor of freedom and independence; but in its stead would soon be substituted an imperial diadem, flashing in false and tarnished luster the murky radiance of dominion and power. She might become the dictatress of the world; she would no longer be the ruler of her own spirit.

Mr. BATE. From whom is the Senator reading?

Mr. RAWLINS. From John Quincy Adams.

I may, without impropriety, refer to some words of Daniel Webster, to whom the junior Senator from Massachusetts last week made reference. Speaking in the Senate in 1846, he used this language:

An arbitrary government may have territorial governments in distant possessions, because an arbitrary government may rule its distant territories by different laws and different systems. Russia may govern the Ukraine and the Caucasus and Kamchatka by different codes or ukases. We can do no such thing. They must be of us, part of us, or else estranged. I think I see, then, in progress what is to disfigure and deform the Constitution. * * * I think I see a course adopted that is likely to turn the Constitution under which we live into a deformed monster, into a curse rather than a blessing, into a great frame of unequal government, not founded on popular representation, but founded in the grossest inequalities; and I think if it go on—for there is a great danger that it will go on—that this Government will be broken up.

Mr. President, it has been insisted that that prophecy has been falsified by experience. But it may not be true. It seems to me that to-day we are standing upon the brink of a precipice, beyond which those words contemplated that disaster would come upon us and upon our free institutions and upon our Republic.

Alaska was ceded to us. Another distinguished Senator from Massachusetts spoke in behalf of the ratification of the treaty by which that transfer was to be effected. Charles Sumner used this language in the Senate, speaking with reference to Alaska:

But there is one other point on which I file my caveat. This treaty must not be a precedent for a system of indiscriminate and costly annexation.

Sincerely believing that republican institutions under the primacy of the United States must embrace this whole continent, I can not adopt the sentiment of Jefferson, who, while confessing satisfaction in settlements on the Pacific coast, saw there in the future nothing but "free and independent Americans," bound to the United States only by "by ties of blood and interest," without political unity. Nor am I willing to restrain myself to the principle so tersely expressed by Andrew Jackson in his letter to President Monroe: "Concentrate our population, confine our frontier to proper limits, until our country, to those limits, is filled with a dense population."

But I can not disguise my anxiety that every stage in our predestined future shall be by natural processes, without war, and, I would add, even without purchase. There is no territorial aggrandizement which is worth the price of blood. Only under peculiar circumstances can it become the subject of peculiar contract. Our triumph should be by growth and organic expansion in obedience to "preestablished harmony," recognizing always the will of those who are to become our fellow-citizens. All this must be easy if we are only true to ourselves. Our motto may be that of Goethe, "Without haste, without rest." Let the Republic be assured in tranquil liberty, with all equal before the law, and it will conquer by its sublime example. More happy than Austria, who acquired possessions by marriage, we shall acquire them by the attraction of republican institutions.

Bella'gerant alii; tu, felix Austria, nube;
Nam quae Mars aliis, dat tibi regna Venus.

The famous epigram will be just as applicable to us, inasmuch as our acquisitions will be under the sanction of wedlock to the Republic. There may be wedlock of a people as well as of a prince. Meanwhile, our first care should be to improve and elevate the Republic, whose sway will be so comprehensive. Plant it with schools; cover it with churches; fill it with libraries; make it abundant with comfort, so that poverty shall disappear; keep it constant in the assertion of human rights. And here we may fitly recall those words of antiquity, which Cicero quoted from the Greek, and which Webster in our day quoted from Cicero, "You have a Sparta; adorn it."

Mr. President, the Senator from Massachusetts [Mr. LODGE], who spoke last week, entertained the Senate by a masterly piece of eloquence, but he did not take as his text the principle which is found enunciated in the quotations which I have read to the Senate.

I have a right to refer to another distinguished statesman from Massachusetts, who, by long and meritorious and patriotic and honorable service to his country, is entitled to a place in history along with the names of the men to whom I have made reference. That Senator is here; he has spoken for himself, and will no doubt, whenever occasion requires, speak for himself; but the utterances which I have read to the Senate there is no doubt find a full indorsement in his judgment as they have found in his utterances in the Senate.

The junior Senator from Massachusetts last week said that he preferred to "err with Pope than to shine with Pye." He meant to classify himself with Pope and to classify the men who took the view which has been expressed in the utterances of Adams and Webster and Sumner and Hoar in the category of Pye—he, Pope; they, Pye; he, historian, poet, sage, philosopher; he to be a gigantic figure in future history; they to dwindle down, to use his own language, beyond the point of detection of the ken of the antiquarian's microscope.

Mr. President, the Senator from Massachusetts and other Senators have affected to believe that they find warrant for the programme which they have outlined regarding the Philippine Islands—and it now develops that the same programme is to pertain to Puerto Rico—in Jefferson, the author of the Declaration of Independence, the great founder of the Democratic party. The junior Senator from Massachusetts in substance said that the principle or declaration that all just governments derive their powers from the consent of the governed was but an aphorism, a

loose, impractical generalization taken from Rousseau by Jefferson and inserted in a revolutionary proclamation to bolster a rickety rebellion against the mother country; which, when it had served that purpose as a makeshift, was in practice here discarded by the very man who had made use of it.

The Senator devoted more than a third of his three hours' speech to what he conceived to be a pulverization of this keystone in the arch of liberty, the consent of the governed. He said that when Jefferson obtained the cession of Louisiana, it was without any regard to the 30,000 people who inhabited it; that that cession utterly ignored and disposed of, without their consent, the Indians who roamed over or had their habitation upon that vast territory. I desire, rather than to let the Senator from Massachusetts speak for Jefferson, to resent this slander upon this great man by reading what he himself said upon that subject.

In his message which referred to this, his message of October 17, 1803, found in Messages and Papers, Volume I, page 357, he referred to the fact that the right of deposit at the port of New Orleans had been suspended as to citizens of the United States. He further referred to the fact as to troubles which would constantly arise there by reason of foreign control of the mouth of that great channel of commerce, the Mississippi River. He then uses this language:

Whilst the property and sovereignty of the Mississippi and its waters secure an independent outlet for the produce of the Western States and an uncontrolled navigation through their whole course, free from collision with other powers and the dangers to our peace from that source, the fertility of the country, its climate, and extent promise in due season important aids to our Treasury, an ample provision for our posterity, and a wide spread for the blessings of freedom and equal laws.

Mr. President, what were to be the rights of the inhabitants under the arrangement which Jefferson made? They were to be given free choice as to the country to which they should render allegiance; they were to be protected in their homes and in all their rights and property. If they continued to reside in the ceded territory, they were to have all the rights, privileges, and immunities accruing to citizens of the United States under the Constitution of our country. Thus there was no possibility of wrong to accrue to any one of those people. They were not made citizens unless they elected to become so by their free consent.

How did Jefferson regard the Indians and how did he propose to deal with them? Let us read his own words upon the subject. On page 358 he says:

With the wisdom of Congress it will rest to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country—

The original act was to continue in force until the expiration of the session of Congress which passed it—

for its incorporation into our Union, for rendering the change of government a blessing to our newly adopted brethren.

That was the great end for which this territory was acquired. As to the Indians, he says:

For securing to them the rights of conscience and of property; for confirming to the Indian inhabitants their occupancy and self-government, establishing friendly and commercial relations with them, and for ascertaining the geography of the country acquired, etc.

Permit me, Mr. President, to allude to the Indians. The proposition of the Senator from Massachusetts was that they were governed without their consent and disposed of without any regard to their wishes. No Indian tribe ever had any tax imposed

upon them. They have never been amenable to the law, civil or criminal, of the United States. They have been left in that regard as free and independent communities, to be subject alone to the laws and customs of the tribe. They had no fixed habitation in that vast territory. They roamed over it; they camped, and hunted the wild beasts that infested it.

Jefferson and those who followed after him and who acted upon his theory and upon his principle never took from them one foot of that land, one iota of that right, vague and uncertain as it was, without their consent obtained by treaties regularly made and ratified. This Government only has interposed to prevent them from committing depredation upon the lives and property of American citizens, acting only as to them in self-defense of its people and its property.

There is, therefore, absolutely no warrant in any contention as to the Indians for the statement that Jefferson abandoned the principle that governments derive their just powers from the consent of the governed. But in this same message Mr. Jefferson, at that time further interpreting his purpose in that regard, said—and I read from page 361:

Separated by a wide ocean from the nations of Europe and from the political interests which entangle them together, with productions and wants which render our commerce and friendship useful to them and theirs to us, it can not be the interest of any to assail us, nor ours to disturb them. We should be most unwise, indeed, were we to cast away the singular blessings of the position in which nature has placed us, the opportunity she has endowed us with of pursuing, at a distance from foreign contentions, the path of industry, peace, and happiness, of cultivating general friendship, and of bringing collisions of interest to the umpirage of reason rather than of force.

Mr. President, I have already alluded to the fact that Mr. Jefferson's doubt and fear was not that the Constitution did extend to this territory, but that it did not, and that if it did not it could not be held. That was a plain, natural, and logical conclusion, because if the Constitution did not extend by its authority there, Congress could not in virtue of the Constitution extend its arm of control there. To hold that it was outside of the Constitution would be to emasculate the power with respect to it of every governmental agency and department created and owing its existence under and by virtue of the Constitution.

But that was settled at a very early date. By no act of Congress was the Constitution expressly extended to the Louisiana Territory. I refer now to a noted historical incident in the career of our country after the duel between Hamilton and Aaron Burr, in which the former lost his life. Aaron Burr went West and entered into consultation and conference with Blennerhasset, and finally with Clark, who had his home in New Orleans. In a little time he was charged with having waged war against the United States. The act charged in the indictment was laid in the Territory of New Orleans, a part of the Louisiana purchase. The treason consisted, according to the charge, in levying war against New Orleans for the purpose of setting up at that point an empire to include Mexico. He was arrested and made application for discharge by a writ of habeas corpus, which came before the Supreme Court of the United States.

The unanimous opinion of that court was delivered by our first great Chief Justice. In the course of that opinion Chief Justice Marshall quoted from the Constitution of the United States:

Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort.

Did that provision apply only to the States? It says distinctly:

Treason against the United States shall consist only in levying war against them.

They did not seek to try Burr under the civil law or under the Code Napoleon for treason defined in that law, which operated in Louisiana, except as it was inconsistent with the Constitution of the United States, but, according to this modern theory, without any regard to consistency with the Constitution of the United States. They proceeded upon the idea that this provision constituted the definition of the crime. It was in virtue of that that Burr was to be prosecuted for the act committed in the Territory of New Orleans, and that the limitations upon this power to prosecute him—the offense as here defined—also pertained to that case and he was entitled to the benefits of those limitations. What are the limitations? I read them:

Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Burr claimed the benefit of that limitation. What did Marshall say? On page 41 of this volume he says:

To complete the crime of levying war against the United States there must be an actual assemblage of men for the purpose of executing a treasonable design. In the case now before the court, a design to overturn the Government of the United States in New Orleans by force, would have been unquestionably a design which, if carried into execution, would have been treason, and the assemblage of a body of men for the purpose of carrying it into execution would amount to levying of war against the United States.

The Senator from Ohio [Mr. FORAKER] challenged any authority anywhere prior to about 1850 for the contention that the Constitution operated within outlying territories of the United States. The Senator from Kentucky [Mr. LINDSAY] who made, as he always does, in harmony with his great and well-merited reputation as a lawyer, a very able presentation of the questions involved and their legal phases, if I understood him correctly, took the position that the rights, privileges, and immunities in these territories ceded from France and from Spain and from Mexico to the United States, which had been successfully claimed before the courts by their inhabitants, had all been derived from and were dependent upon the stipulations of the treaties between the governments in those cases. I do not think that contention does credit to the great reputation of the distinguished Senator, with all due respect.

Let us see what follows from that. When these respective governments ceded the territories in question to the United States, they thereby retained no residuary sovereignty or dominion over those territories or their future inhabitants. The inhabitants, or those who might thereafter go into those territories, or be born in those territories within the jurisdiction and sovereignty of the United States, could not be told that their rights, privileges, and immunities were dependent upon the grace of any foreign prince or potentate. That contention is utterly absurd. A citizen of Arizona can not by any treaty stipulation between this country and any foreign prince or potentate have his rights stipulated away. It is not the subject-matter of treaty stipulation.

What did these treaties undertake to deal with? And first as to the treaty with Spain ceding Florida, the territory which had belonged to Spain. It was a legitimate subject of treaty stipulation. Spain ceded her sovereignty and control over it to the

United States. That ended that phase of it. What more? There were inhabitants, subjects of the Kingdom of Spain then occupying that land. Their interests and their rights were in a measure involved in that transfer.

Mr. BACON. To which Spanish transfer does the Senator from Utah refer?

Mr. RAWLINS. The treaty in regard to Florida. What should be done with those people; as to those precise inhabitants living upon the territory at the time of cession who were then and had been citizens and subjects of Spain and entitled to her protection? When the territory was ceded, their rights, being a matter of international concern, it was agreed they should be protected by certain guaranties applying personally to them and not to the territories; preserving their rights, securing to them the free exercise of religion, the rights, privileges, and immunities of citizenship, giving them the free choice as to what government they would render allegiance. Beyond that the treaty did not undertake to go. Next as to the treaty with Mexico. What did it provide? I will read the clause. It is found on page 495 of the Public Treaties of the United States:

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens or acquire those of citizens of the United States.

Thus giving them their free choice as to what government they would render their allegiance.

But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories property of every kind now belonging to Mexicans not established there shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to guaranties equally ample as if the same belonged to citizens of the United States.

Now, article 9. Let me read that:

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and, in the meantime, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

That I may do no injustice to the Senator from Kentucky [Mr. LINDSAY], I will quote exactly what he said upon this subject. I had the honor a week or two ago to ask the Senator from Kentucky a question referring to cases arising in the territory ceded by Mexico to the United States, which I had digested in a speech I delivered something more than a year ago. The Senator from Kentucky undoubtedly refers to that question in this language:

I was asked the other day how I explained the decisions of the Supreme Court in cases arising in Territories acquired by the treaty with Mexico, to the effect that Congress could not provide for twice punishing a man for the same offense and could not make applicable to that territory a bill of attainder, and could not dispense with the trial by jury in cases at common law

involving more than \$20, and could not take away from the accused the right to confront the witnesses who may testify against him, and could not put a man on trial without previous information of the nature of the accusation.

My explanation is that the Constitution of the United States protects the citizens of the United States against any one of those abuses of power, and that the inhabitants of the territory acquired from Mexico were made citizens of the United States by the ratification of a treaty which clothed them with American citizenship, and in express and unqualified terms secured to them the enjoyment of the rights of citizens of the United States according to the principles of the Constitution.

Those who represent what they term the anti-imperial sentiment of the country will not, of course, accept the explanation as satisfactory. They propose to look beyond and behind the stipulations contained in the treaties with France, Spain, Mexico, and Russia, and, doing so, to commit the Supreme Court to a rule of decision that will preclude the judiciary department of the Government from recognizing the power of Congress to exercise sound legislative discretion in carrying out so much of the treaty of Paris as provides that—

“The civil and political status of the native inhabitants of the territories ceded to the United States shall be determined by the Congress.”

In the numerous cases to which I have made reference arising in the territory ceded by Mexico in 1848—cases which held that the defendant could not be denied the free exercise of religion; cases which held that a defendant in the territory could not be tried except by an impartial jury of twelve men; cases which held that the defendant must be informed of the cause and nature of the accusation; cases which held that in respect of the people in that territory Congress could pass no *ex post facto* law or bill of attainder; cases maintaining the right of the defendant in an action at common law to a jury trial, etc.—unfortunately for the position and contention of the Senator from Kentucky, in not one of those cases was the defendant in a position to claim any right, privilege, or immunity under the treaty with Mexico. Not one of them was a Mexican or ever had been a Mexican. Every one of them had gone to that territory after it had been acquired from Mexico and while it was under the absolute dominion and control of the United States.

In not one of those cases was any such privilege or immunity set up or claimed by the defendant. In no one of those cases did the Supreme Court allude to the treaty or any treaty as the basis of the privilege set up and claimed by the defendant. Nor did any judge of the Supreme Court of the United States nor the court itself, in any of the cases which have been cited, ever base the decision upon the ground that the Constitution secured the rights claimed by virtue of being extended by an act of Congress, evidently realizing that an act of Congress is an inadequate basis upon which to rest the Constitution. In every case the Supreme Court of the United States said the power of this Government was restrained in its legislation and in the exercise of power in the Territory by those great principles of constitutional liberty which constitute restriction upon the powers both of the State and the Federal Government; that the citizens, each and every one of them, arraigned and charged, was entitled to the protection of that instrument wherever he might be, whether in a State or Territory, anywhere within the political jurisdiction of the United States. That is the ground upon which all these cases rest.

Mr. President, the cases go back to the very inception. For instance, in 3 Howard there is the case of *Pollard vs. Hagan*, page 212, and the part of the syllabus bearing upon this question is as follows:

Under the Florida treaty the United States did not succeed to those rights which the King of Spain had held by virtue of his royal prerogative, but possessed the territory subject to the institutions and laws of its own government.

Further in the opinion of the court—and it was a very distinguished and able court, among its members being Mr. Justice Story—page 224, this language is employed:

And all constitutional laws are binding on the people in the new States and the old ones whether they consent to be bound by them or not. Every constitutional act of Congress is passed by the will of the people of the United States, expressed through their representatives, on the subject-matter of the enactment; and when so passed it becomes the supreme law of the land and operates by its own force on the subject-matter in whatever State or Territory it may happen to be. The proposition, therefore, that such a law can not operate upon the subject-matter of its enactment without the express consent of the people of the new State where it may happen to be contains its own refutation and requires no further examination.

Further on, page 225, this language is used:

It can not be admitted—

This is very pertinent to the proposition of the Senator from Kentucky:

It can not be admitted that the King of Spain could, by treaty or otherwise, impart to the United States any of his royal prerogatives, and much less can it be admitted that they have capacity to receive or power to exercise them. Every nation acquiring territory, by treaty or otherwise, must hold it subject to the constitution and laws of its own government and not according to those of the government ceding it.

These are very early cases, long before 1850. In practice the men who framed the Constitution and those who immediately followed them in control of the Government of the United States never had a doubt that Congress only had authority by virtue of the Constitution to legislate at all for the Territories; that when it did legislate it must find its source of power in the people's grant of power—the Constitution; that it must be exercised in the mode which that instrument prescribes; that the act of Congress must have the concurrence of the President; that it must be circumscribed within the limitations which that instrument prescribes for the exercise of Congressional power.

It is a plain and inevitable proposition that you can not go in virtue of the Constitution and leave the Constitution behind you. If you cut loose from it, you have nothing to support your authority. Such was the idea of those who founded this Government, and in all of the early statutes they did not say the Constitution is hereby extended to the Territories, but they said all legislation, national and local, must not be inconsistent with the Constitution of the United States, thus presupposing it to be already there.

But after 1850 there was a question raised whether the Constitution extended, and but for one reason it never would have found lodgment in any human brain within the confines of our country. What was that? The Constitution contained in one of its clauses a recognition of slavery. A party grew up in this country opposed to the further extension of slavery. If the Constitution went by its own inherent force into new territory, it would carry with it the recognition of the right to hold slaves. Benton revolted at the idea. He limited his contention, to use his own words, as quoted by the Senator from Ohio, to that one provision in the Constitution. But he was overruled. The cases to which I have alluded, the Dred Scott case, the decision in regard to the scope of the revenue laws of the United States, and numerous cases to which I referred at the last session of Congress and which have been frequently referred to since, all disposed of that idea.

But, Mr. President, by the thirteenth amendment the reason of the objection to the extension of the Constitution which was made

by Benton and those who agreed with him was eliminated, and the reason ceasing to their minds, undoubtedly the principle fell with it, that that provision of the Constitution did not so extend. Why should anyone, against this overwhelming practice, against all the numerous decisions from the foundation of our Government down to the present time, at this time seek to curtail and circumscribe the principles of the Constitution?

Mr. President, the Senator from Kentucky in his speech, great and masterly in statement, but utterly unwarranted in its premises, virtually appeals to the Supreme Court to override all the precedents in order that we may say that people of our own flesh and blood, citizens of this our common country, who may see fit to take up their abodes in some of the distant possessions which it is claimed have come to us, shall not there have their rights conserved by this Constitution of ours. I understand well enough that a court, when it finds that a former decision was erroneous and mistaken, will not hesitate, upon sufficient reason, to overrule it; but when it involves a question of constitutional construction or even statutory construction, the court will not overrule it except when it feels constrained to do so in order to carry into effect the great end and purposes for which the Constitution was ordained or the statute enacted.

But now the Senator from Kentucky invites the Supreme Court to ignore the great purpose for which the Constitution was framed, namely, to secure to the people of the United States, the entire body of citizenship, native born or naturalized, to secure to all of them and to their posterity, wherever they might be (and they knew they were a migrating, a progressive, an expanding people, they were State builders), wherever they might go, within the political jurisdiction of this Government, not limiting it to the particular number of square feet of the original thirteen States, the rights and blessings of constitutional liberty.

And in 10 Howard, a very early case, that idea is expressed so potently and so tersely that it seems to me that high authority ought not to be gainsaid. I read from page 96 of 10 Howard:

The Constitution was, in the language of the ordinance—

That is the ordinance of 1787—

adopted by common consent, and the people of the Territories must necessarily be regarded as parties to it—

The people of the Territories must necessarily be regarded as parties to it—

and bound by it, and entitled to its benefits, as well as the people of the then existing States. It became the supreme law throughout the United States. And so far as any obligations of good faith had been previously incurred by the ordinance, they were faithfully carried into execution by the power and authority of the new Government.

Thus, Mr. President, you can not find warrant in our Constitution or structure of government to rule with despotic sway according to an unrestrained, arbitrary will anywhere.

This was one of the things which the framers of the Constitution intended to overthrow for all time and as to all territory.

Now we turn to this last treaty, the treaty with Spain. I have before me Senate Document No. 62, Part I, and I turn to page 8. This question is dealt with in Articles IX and X of the treaty.

Mr. SPOONER. Will the Senator from Utah allow me to ask him a question?

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Utah yield to the Senator from Wisconsin?

Mr. RAWLINS. I yield to the Senator.

Mr. SPOONER. Is it the Senator's theory that immediately upon the acquisition by the United States of the territory the Constitution *proprio vigore* extends over it?

Mr. RAWLINS. I will answer that question. I will answer it now if the Senator desires.

Mr. SPOONER. At your leisure. I do not want to interrupt the Senator.

Mr. RAWLINS. I will answer it in more detail as I progress.

Mr. SPOONER. I beg pardon for interrupting the Senator. I do not want to interfere with the line of his argument at all.

Mr. RAWLINS. I will proceed with my argument, if it is the same to the Senator, on the right acquired by treaty.

This Article X first deals with the Spanish subjects, natives of the Peninsula residing in the territory over which Spain, by the present treaty, relinquishes or cedes her sovereignty. It deals with those who were born upon the Peninsula of Spain. It gives them the right of choice as to which Government they shall render their allegiance, protects them in their property and in their homes, and conserves their rights in the same language as in the case of the Florida treaty. Now, that is all; nothing more. That only applies, of course, to those who come within that description. It does not operate to protect and subserve the rights or privileges or immunities of anybody else. Next it deals with another class of cases in the following language:

The civil rights and political status of the native inhabitants of the Territories hereby ceded to the United States shall be determined by the Congress.

Now, that covers only those who come within that description. The native inhabitants of the Philippine Islands are to be dealt with in the language of this treaty. Their civil and political status are to be dealt with by Congress. That does not include Englishmen, Germans, or Frenchmen, or any other of the great variety of nationalities who may be there. They do not come within its terms. It includes no American, of course, for he is not a native of those islands. It does not include any Chinamen, and there are more than 100,000 of them there, as I understand, nor any Japanese. You find, therefore, nothing in this. The Senator from Kentucky [Mr. LINDSAY] bases the entire superstructure of our authority upon this first clause.

Now, that brings me to the question the Senator from Wisconsin [Mr. SPOONER] asked me a while ago. Here are large classes of people who do not come within any of the provisions of any of these treaties. What is to become of their rights? We can not get any power, arbitrary, despotic, to dispose of the native inhabitants. That is left to Congress in the treaty. By this treaty the King of Spain does not undertake to grant any of his royal prerogatives, any of his autocratic power, if he possess any, to the United States or to Congress or to anybody else to deal with these people. The Supreme Court has said, and it is a very plain proposition (I can not see how anyone would question it), that this Government of ours is incapable of receiving any such grant if the King of Spain or any foreign potentate should undertake to make it; but he does not undertake to make it in this case.

But there are other people who do not come within any of the provisions, to whom it makes no possible reference. What are we

to do with them? Well, with respect to any territory ceded, the cession does not change the national character of the territory—so says Chancellor Kent—pending the transitory period from the time of the cession until delivery of possession has actually taken place. What will become of the territory if no disposition of it is made? Of course it must be determined by the authority which is entitled to speak for the United States so far as it concerns the United States. To speak how? To speak by virtue of the authority which it possesses. Derived from what source? From the people of the United States. How? By the Constitution, which constitutes the people's grant of power. What is that authority under the Constitution? When you have answered that, then you have answered the entire inquiry.

It is the Congress which is to speak, with the concurrence of the President, legislating in the method which the Constitution prescribes after the possession of any ceded territory has been actually transferred, has been accepted, and the authority of the constitutional power of this Government is established there. It is established under the Constitution, by virtue of the Constitution, with all the limitations which the Constitution prescribes, and the Constitution is there just as much as it is in the District of Columbia or as it is in any other of the Territories over which the jurisdiction of the United States has become finally and permanently established.

Mr. President, in a sense, of course, the Constitution is in the territory by virtue of an act of Congress. It is in virtue of it, just as the control of a piece of property comes within the dominion of the person to whom it is transferred. He holds it, and certain incidental rights go with it, subject to certain conditions and certain laws. So it is for the proper constitutional authority of the United States to accept territory by formal, solemn act and to assert final dominion. The dominion of other powers over it having come to an end finally, then authority is established there by virtue of the Constitution, and all the inhabitants who live there, citizens of the United States or otherwise, have secured to them all the rights, privileges, and immunities which that instrument accords to citizens anywhere.

Political power, the power to govern and the right to vote, is one thing. The Constitution does not confer that right upon anyone. The right to a trial by jury it does secure to everybody. It makes no reference to the right to go and cast a ballot to hold a particular office. The Constitution confers no such right. Suppose the Constitution is there; no right to anyone is derived in those respects, because that instrument does not purport to confer such rights anywhere. But it is otherwise as to those provisions designed to secure the blessings of liberty, individual liberty, the right to life, liberty, the pursuit of happiness, the free exercise of religion, to be exempt from unreasonable searches and seizures, not to have passed any *ex post facto* law to operate upon him, or any bill of attainder working corruption of his blood, not to be subject to punishment for treason except within the limitation prescribed by the Constitution, that Congress may not grant any title of nobility anywhere.

These outlying territories, when our authority is once established there, are a part of the land, and they and all the people within them are subject to the supreme law of the land. That is the answer which I make to the Senator from Wisconsin. We do not get any right over the native inhabitants of the Philippine

Islands by that treaty. It confers none. May Congress dispose of them? How? What is Congress? Cut loose from the Constitution and ignore it, and tell me, what is Congress? Obliterate it and cast it out of your mind, and answer the question, What is Congress?

How is Congress to exercise its power if you are to ignore the Constitution, if it is so much waste, blank paper? Are we to organize into a mob? Are we to be like the forty tyrants? Are we to become marauders and freebooters, cut loose from the Constitution, which is the only source of authority to act? No; we are the Congress as defined in the Constitution. How are we to act? All revenue bills must originate in the other House. We are to proceed according to the constitutional methods, with the concurrence of the President. In legislating we must not undertake by edict of legislation to take property from one and give it to another without due process of law. That is not legislation.

After our authority is established there, when the laws of war end or the conditions upon which the writ of habeas corpus may be suspended, you can not hang a Filipino without trial. You can not punish him twice for the same offense; you can not cast him down into a dungeon to await the incoming tide to take away his life. Can you? If so, how? Even in war the Supreme Court of the United States has said in the Milliken case (4 Wallace):

This Constitution of ours operates in war, as well as in peace, in all places, and under all circumstances. It is a law for the rulers as well as for the people; each and every one everywhere within our political jurisdiction is bound by it.

[At this point the Presiding Officer announced that the hour of 2 o'clock had arrived, when the unfinished business was laid before the Senate. Unanimous consent was given, on the request of Mr. FORAKER, that Mr. RAWLINS might conclude his speech.]

Mr. RAWLINS. Mr. President, without further reference to the constitutional question, I next invite the attention of the Senate to some moral phases of the question which pertains to the Philippines.

The Senator from Massachusetts [Mr. LODGE] complained that while the Republican party or the Administration had a simple, clear and well-defined, positive policy in regard to the Philippines, those who were in opposition to that had not presented anything except that which was vague, uncertain, and elusive.

We find in the resolution of the Senator from Indiana [Mr. BEVERIDGE] what seems to be a clear and positive declaration. It is easily understood. So far as I am concerned, and I speak, of course, only for myself, it would be useless for me to outline what I would do under any hypothesis which does not exist. If we propound a policy to-day, we in the opposition are utterly powerless to carry it into execution.

But, Mr. President, the policy is to defeat the purpose of the dominant power so far as it is expressed, if I understand it, in these two measures. That is an affirmative policy of itself. I think I see in your hand a bludgeon, which, if let loose, which, if not stricken from your hand, will work detriment not only to the intended victim, but to yourselves and to ourselves, and I will, if I can, strike it from your hands and prevent you from doing that harm which must be the consequence if you are permitted to go on. Hence, you shall receive no vote of mine in aid of carrying out this programme. But if we defeat the programme, what, then, should you do?

Mr. President, if I should be permitted to speak upon this question, I think it would resolve itself largely into a detail of transportation and an ocean voyage. If those who are in the majority in the Senate ask me what I would advise them to do, I would point them to Spion Kopje, to do what Buller did when he found himself there in an untenable position—to execute a masterly and orderly retreat. I am trying to conform to the dictates of the Constitution, to our moral obligations, and to fulfill the pledges which have been put forth by our people.

The Senator from Massachusetts said that we invite the Republican party to make promises. He says promises and hesitations to the Asiatic or Malay mind simply excite, exasperate those people to a breach of the peace and disturbance, and make them want to kill somebody. When I read that it struck me as a most peculiar proposition. That can not be true of all promises. I think the distinguished Senator must have had in his mind the promises of the Republican party. The thing has gone to that extent where those promises almost have that effect sometimes upon the Anglo-Saxon mind.

Mr. President, it can not be that the gallant young Malay, when he has succeeded in extracting a promise from his sweetheart, straightway goes off and kills somebody. The expectation of fulfillment of the promise presupposes confidence. Without this, human society could not exist, mankind could not be. On these things perhaps more than all else men depend for present and eternal happiness. If there is anything that sweetens life; that elevates the soul from the groveling to the sublime and the God-like; that touches the æolian chords of sympathy, causing them to vibrate in unison with tones of healing to misery, awakening to ecstasy the wretched downcast spirit, it emanates from the purest word distilled into the ear—the sweet promise of an eternity of joy as the reward of a life of virtue.

Mr. President, the Senator proposes to strike promise and hope away from the vocabulary of the Filipino. There is to be for him no rule prescribed in advance to which he may conform his future conduct. He is not to be permitted to know to-day what his fate will be to-morrow. That proposition, to my mind, is for malevolence, the most diabolical which ever emanated from human lips. The Senator from Massachusetts could not have meant that. He must have meant the promise which turned to perfidy, the perfidious violation of plighted faith, the promise made to the ear and broken to the hope, the bitterness of soul which arises from confidence betrayed and expectations thwarted.

Mr. President, these things tend to excite the human mind and exasperate the human soul and lead to bloodshed and disturbance not only in the Asiatic territory but in the territory inhabited anywhere with people having the motives and aspirations and the characteristics of humanity.

Mr. President, our troubles in the Philippine Islands are not due to the fact that promises were made. Those people were led to believe by the proclamation of the President, issued through Otis, by the proclamation of the President, issued through General Miller, that this great white Republic of ours had spoken to them with a deceptive and a forked tongue. That drove them to exasperation, and to that must be ascribed the waste and the bloodshed and the deaths of our brave soldiers.

Mr. President, the Senator from Massachusetts says that no pledges or promises were made under the authority of the United

States to the Filipino people. The Senator says, in the first place—and I invite attention to that proposition—that there were no soldiers in the Philippine Islands in antagonism to the authority of Spain at the time of the declaration of war by the United States against Spain. He says the report that there were 5,000 Filipinos in arms in Luzon turned out to be untrue; that no such thing existed.

Our consul-general at Manila officially reported to the President of the United States that there were 5,000 Filipinos in arms; that the insurrection was going on, and that Spaniards were being killed and were being brought into Manila daily before that declaration of war. That document was sent to us by the sanction and approval of the President, and it is embodied in Senate Document No. 62. Our consul-general at Singapore, Mr. Pratt, officially reported to the President prior to the 1st day of May, about the 28th day of April, just after the declaration of war with Spain, that Aguinaldo was then at Singapore and was directing the operations of the armed insurgents, 5,000 in number, in the island of Luzon, waging war against Spain.

General Anderson was the first to arrive in Luzon. He went there with the expeditionary forces and arrived there about the 2d or 3d day of July. General Anderson refers to this statement and says that it is true. He says this in an article on "Our rule in the Philippines," printed recently in the *North American Review*. I quote his language:

On the 1st of July, 1898, I called on Aguinaldo with Admiral Dewey. He asked me at once whether "the United States of the North" either had recognized or would recognize his government—I am not quite sure as to the form of his question, whether it was "had" or "would." In either form it was embarrassing. My orders were, in substance, to effect a landing, establish a base, not to go beyond the zone of naval cooperation, to consult Admiral Dewey, and to wait for Merritt. Aguinaldo had proclaimed his government only a few days before (June 28) and Admiral Dewey had no instructions as to that assumption. The facts as to the situation at that time I believe to be these: Consul Williams states in one of his letters to the State Department that several thousand Tagals were in open insurrection before our declaration of war with Spain. I do not know as to the number, yet I believe the statement has foundation in fact.

So we have the concurrent testimony of Williams and Pratt and General Anderson that this fact is true; and yet against this consensus of authority the Senator from Massachusetts says that it is false. He does not give us the benefit of the authority upon which he bases that assertion.

As soon as our war was declared, our consul-general at Singapore had an interview, as he reported to the Administration here, with Aguinaldo in the presence of certain other persons. He says in that report that Aguinaldo was then carrying on the war against Spain independently. He first urged upon him the importance of ceasing such independent warfare against Spain and of cooperating with the United States.

He reports that Aguinaldo said that he was willing to cooperate to subserve the purpose which he then declared to our consul-general, namely, that he would be satisfied with the same treatment which the United States proposed to accord to Cuba. Thereupon our consul-general, our sole representative at that port at that time, said that would be satisfactory, and he telegraphed to Admiral Dewey that Aguinaldo would go at his instance to Hongkong to join the forces of the United States, and that Admiral Dewey telegraphed back: "Tell Aguinaldo to come as soon as possible;" that on the first vessel outgoing from Singapore

Aguinaldo took his departure, but arrived in Hongkong too late to go with Dewey's fleet to Manila. Then Mr. Wildman, consul-general of the United States at Hongkong, tells us that a proclamation summoning the Filipino people to arms had been prepared at Hongkong and was carried to Luzon by the American Navy.

What was that proclamation? It summoned the people to arms; declared that the United States and its forces were going there as their liberators, to bring to them that for which they struggled. At the very first conference between Aguinaldo and Pratt at Singapore, on the 26th day of April, Aguinaldo declared the purpose of his cooperation in the war of the Filipino people against Spain was to achieve independence and self-government. These facts were at once communicated, as will appear by an examination of the documents, laid by the sanction of the President before the Senate, to the Administration.

About the 6th of June, after Aguinaldo arrived—Aguinaldo arrived in Luzon on the 19th day of May—the Filipino people flocked to his standard. He began his operations, and in an incredibly short time he had 9,000 Spanish prisoners in his custody. He was in possession before the arrival of the first expeditionary forces of the United States of all of Luzon outside of the city of Manila, and the Spanish army there were his prisoners.

When Anderson arrived, did he carry any message from the Administration repudiating the pledges which had been made by Pratt and by Wildman? General Anderson has told us to the contrary. You must remember now, Mr. President, that the Administration was fully advised prior to the arrival of Anderson, prior to the 1st day of June; that the Secretary of State, and presumably the President, was fully advised of the expectations of the Filipino people and what the nature of their cooperation with the United States was to be. If a man asks the service of another, and that other says to him, "You may have it for a certain price," and the first tells the latter to go to work, and he does so, it is a contract recognized as obligatory in every forum of justice.

This Government, from the President down to the consul-general, knew before Anderson arrived with the first expeditionary force in the Philippine Islands that the object of the services which Aguinaldo and his forces were rendering to the United States was to compass and bring about their independence and self-government.

Let us see what General Anderson says upon that subject. I read from the *North American Review*. He says:

Whether Admiral Dewey and Consuls Pratt, Wildman, and Williams did or did not give Aguinaldo assurances that a Filipino government would be recognized, the Filipinos certainly thought so, probably inferring this from their acts rather than from their statements.

The Secretary of State, Mr. Day, knew that they thought so, and he writes to Consul-General Pratt and summarizes the promises which had been made by our sole representative there to those people and to the leaders of those people. Secretary Day says, in substance, "Your reports to us disclose an understanding on the part of Aguinaldo and the Filipino people that our object there, the object of the cooperation between them and us, is to achieve their independence."

A delegation of Filipino people called on Consul-General Pratt, at Singapore, and delivered an address on the 9th of June. In response the consul-general, among other things, presented a flag to those people. In the address which the Filipino spokesman

made to our consul-general he said he hoped that this great nation, the American nation, would persevere in its policy of humanity and in confirmation of the arrangement made between Pratt and Aguinaldo on the 26th day of April. Pratt responded, and, among other things, presenting an American flag, he said:

The red stripes are the emblem of the blood shed by our ancestors for freedom and independence, as you Filipino people are shedding your blood. The white signifies the purity of motive, the blue the azure sky, the stars the equality of the independent States constituting the Republic. Take it and keep it as a souvenir of this occasion.

That was promptly communicated to the Administration, and has been sent to Congress with the sanction of the President of the United States.

General Anderson refers to an incident which is of peculiar significance. I read what he says:

About the middle of July the insurgent leaders in Cavite invited a number of our Army and Navy officers to a banquet. There was some postprandial speech making, the substance of the Filipino talk being that they wished to be annexed, but not conquered. One of our officers in reply assured them that we had come not to make them slaves, but to make them free men. A singular scene followed. All the Filipinos rose to their feet, and Buencomeno, taking his wineglass in his hand, said: "We wish to be baptized in that sentiment." Then he, and the rest poured the wine from their glasses over their heads.

Prior to July 1 these people had made a formal declaration of their independence; they had organized a provisional government; Aguinaldo had issued a proclamation, which Wildman says he helped him to prepare to this end in Hongkong before his departure.

Mr. President, such were the circumstances which General Anderson says gave those people the right to believe, and they did believe, that the end of all this was to be their freedom and independence. It would be unfair to say that the Administration was proceeding in matters of such serious consequence as this without consideration of the facts. It is fair to presume that the Administration knew these things which the consular officers reported officially to the authorities at Washington.

Secretary Day telegraphed both to Pratt and to Wildman not to make unauthorized representations to the Filipinos. That was well enough; but the Filipino people had been relying upon these promises, and it was the duty of the Administration, if it wished to repudiate them, to bring notice to those who were concerned of the repudiation. There was no one more naturally to whom such a notice might be given than the commander of our first expeditionary forces that landed there; and yet Anderson tells us that he had no instructions; that he had no authority to speak one way or the other upon the question. The first question propounded to him by Aguinaldo, he says, was: "Had the United States recognized or would the United States recognize his government?" In either form, he says, it was embarrassing, because he had been given no authority to speak.

General Merritt was invited by Aguinaldo by letter to speak as to what the purposes and intentions of the Government of the United States were. General Merritt, when he arrived in the latter part of July, took control. Why was it that he was not given definite instructions to repudiate the pledges and promises which our consular representatives had made to those people, and which had been officially communicated to the President? But when Aguinaldo and the Filipino people asked Merritt what our purpose was, he says, "I have no authority to speak;" but he went one

step farther, and he said, "I think you can rely upon the good faith of the United States."

Let us proceed in this line a little further. We have seen that pledges were made, that their repudiation was never brought home to the Filipino people, or to their leaders. They were permitted to go on sacrificing their lives in a struggle which this nation of ours knew was for the purpose of achieving their own independence and self-government. Manila was captured. Aguinaldo and those acting with him, his associates, obtained possession not only of Luzon, but of all or almost all the other islands of the archipelago. I read what General Anderson says on that subject. He says:

We—

That is, the American forces—

We held Manila and Cavite. The rest of the island was held, not by the Spaniards, but by the Filipinos. On the other islands the Spaniards were confined to two or three fortified towns. At the time referred to we could not claim to hold by purchase, for we had not then received Spain's quit claim deed to the archipelago. Making allowance for difference of time, we took Manila almost to the hour when the peace preliminaries were signed in Washington.

The same thing is corroborated by General Merritt. I next refer to a statement by General Otis. On page 76 of General Otis's report he uses this language:

And thus, in December, 1898, we find in northern and southeastern Luzon, in Mindoro, Samar, Leyte, Panay, and even on the coast of Mindanao and in some of the smaller islands, the aggressive Tagalo, present in person, and, whether civilian or soldier, supreme in authority. The success which attended the political efforts of Aguinaldo and his close associates and gave them such sudden and unexpected power was not calculated to induce them to accept subordinate positions in a reestablished government, and the original premeditated intention to control supremely at least a portion of the Filipino people had become firmly fixed. The cry for liberty and independence was everywhere being raised.

I next refer to page 94 of the same report, where General Otis says:

General Aguinaldo was now at the zenith of his power. He had recently suppressed rebellion which had raised its head in central Luzon. He had assembled a pliant congress, many members of which had been appointed by him to represent far-distant congressional districts, and which had voted him the dictator of the lives and fortunes of all the inhabitants of the Philippines. He dominated Manila, and when he ordered that the birthday of the martyred Rizal should be appropriately observed there, business was paralyzed and not a native dared to pursue his accustomed daily labors. Not a province had the courage to oppose his appointed governors, backed by their Tagalo guards, although a few of those governors had previously suffered martyrdom for the zeal exhibited in collecting money and sequestering private property. The southern islands were obedient.

Thus in this last statement not only Aguinaldo and his government were everywhere, even dominated the city of Manila.

What further occurred? The authority of Spain had been completely destroyed in those islands beyond all possibility of restoration. General Greene said in a report made August 27, 1898—I read from page 374, Senate Document 62—

The Spanish Government is completely demoralized, and Spanish power is dead beyond possibility of resurrection. Spain would be unable to govern these islands if we surrendered them.

General Merritt says in his testimony given before the Peace Commission at Paris, found on page 369, in answer to a question propounded by Mr. Gray. I will first read the question. It is as follows:

MR. GRAY. Suppose by final treaty with Spain we should abandon Luzon and all the Philippines, exacting such terms and conditions and guaranties

as we should think necessary, and abandon them entirely, reserving only a coaling station, perhaps; what do you think they would do about it?

General MERRITT. I think in the island of Luzon they would fight to the bitter end. I have talked with a number of them, intelligent men, who said their lives were nothing to them as compared with the freedom of the country, getting rid of Spanish government.

Mr. DAVIS. Do you think Spain would be able to reduce them?

General MERRITT. No, sir.

I read further from General Merritt. This question was propounded by Mr. DAVIS and is to be found on page 368:

Mr. DAVIS. Suppose the United States, by virtue of a treaty with Spain, should take Luzon, all the Philippines, or a part, by virtue of a treaty, paying no attention to the insurgents, how would that be taken by Aguinaldo?

General MERRITT. I think Aguinaldo and his immediate following would resist it, but whether he could resist to any extent I do not know, because his forces are divided.

Thus, Mr. President, General Merritt informed our peace commissioners at Paris that to do what they afterwards did would necessarily bring war in those islands.

Mr. FRYE, the distinguished presiding officer of the Senate, when he was in Paris, evidently had in mind that there had been an alliance between the United States and the Filipino people in the struggle against Spain. I read from page 488 the following:

Mr. FRYE. I would like to ask just one question in that line. Suppose the United States in the progress of that war found the leader of the present Philippine rebellion an exile from his country in Hongkong and sent for him and brought him to the islands in an American ship, and then furnished him 4,000 or 5,000 stands of arms, and allowed him to purchase as many more stands of arms in Hongkong, and accepted his aid in conquering Luzon, what kind of a nation, in the eyes of the world, would we appear to be to surrender Aguinaldo and his insurgents to Spain to be dealt with as they please?

A. We become responsible for everything he has done; he is our ally, and we are bound to protect him.

Mr. President, I next read from a report made by Major Bell, who is most highly commended by General Merritt, who has rendered very distinguished service in the United States Army in the Philippine Islands, and whose veracity will scarcely be doubted, who made, by official direction, a special investigation of the conditions of the Filipino people immediately after the arrival of the first expeditionary forces, about the 1st of July. He says:

There is not a particle of doubt but what Aguinaldo and his leaders will resist any attempt of any government to reorganize a colonial government here. They are especially bitter toward the Spaniards, but equally determined not to submit any longer to being a colony of any other government.

Mr. President, these are some of the witnesses whom I call, witnesses whose standing and authority can not be questioned, witnesses who were entitled to speak upon this subject, most of them witnesses of the transactions of which they give account. They have official sanction, and they inform us that these things existed, and they can not be disputed.

I desire to render every presumption in favor of right conduct of this Government and all those who may represent it. I do not desire to infer anything which is not reasonable—not inevitable. I would draw no conclusion which does not seem to me to be imperative; but now, in all candor I ask, Mr. President, whether, in looking back over the past transactions for the last two years, we have dealt openly, frankly, honorably, and justly with those people?

I am willing to make all necessary allowances to the President and to any particular officer; the multitude of duties which they have to perform distract their attention. I am willing to concede, for the purposes of what I have to say, that the President of the United States did not become fully conscious of the actual state

of affairs across the ocean in that far-distant land. That is not the question which I desire to raise; but I do take an account of those past things—although Senators say we ought not to do so—because it is only by taking into account the things which have passed that we may accurately be able to determine the things of the present and be able to judge what is best to do for the future.

These facts, first, the aspiration and expectation of independent government on the part of the Filipino people, under the leadership of Aguinaldo; second, knowledge of this Government that such was their expectation; third, inducements held out to them, by our representatives, whether directly authorized or not, that that expectation would not be disappointed; fourth, the information which our own officers, after investigation, gave to us officially that to undertake to disappoint that expectation would lead to bloodshed and war, by Bell and Anderson, and reiterated by Otis—while we understood these facts and that such would be the result, we demanded of Spain the cession of absolute sovereignty over a territory of which she had irretrievably lost possession, not a foot of which was under her control.

We demanded the cession of her so-called sovereignty to the United States, for which we paid to her \$20,000,000. That fatal step was taken (because it was a fatal step, and no man can dispute it) with the full knowledge of the facts communicated to those who were responsible for it that it meant inevitably a conflict of arms with the Filipinos, who had been led by our representatives across the water to cooperate and aid us in our war against Spain with the expected compensation of being able thereby to achieve their own freedom and establish their own self-government and rule their own destinies.

Those who support the policy of the Administration say we must deal with the present. The proposition of the Senator from Massachusetts is that all-sufficient is the evil of the day. He does not want to grope forward and find more evils by probing into the future. He wants us to take no account of the past, and I agree with him in a measure that the situation of man as expressed by Burke is the preceptor of his duty, but he can not perform his duty unless he looks around him, behind him, and into the future so far as his limited vision may extend.

Whence did this war come? Where will it end? Whither will it lead, Mr. President? Anderson and Otis tell us why it came. Merritt and Bell told our peace commissioners what would bring it about. Knowing that, we did that which they said would and which did bring it about. Mr. President, it was not a freak of chance, a child of destiny. It was not an act of Providence. When the message was sent across the water to Dewey wanting to know which would be the most valuable of those islands for us to take, the answer came back; and the distinguished Senator from Minnesota [Mr. DAVIS], a member of the commission, asked General Merritt whether, if we would take this and ignore those people, the native inhabitants would fight. Merritt said "They will fight."

Mr. President, every nation is endowed with the power of rational volition, and it must suffer the penalty of the failure to exercise it. I am not prepared to concede the contention, discreditable as it is to the Administration, that the events in the past have been mere freaks of chance, the Executive Mansion of my country, like the kingly palace of George the Third, an irresponsible madhouse. The President is an able man, courteous in all his

dealings, and I will do him no injustice. He is able to comprehend facts when they are laid before him. He can trace consequences undoubtedly from causes. He was advised of the situation. He acted deliberately, whether of his own motion or by the power which controlled him. For what he did he is responsible. It is in the essence of our institutions that those elected and placed in important positions in our Government must be responsible. If they do not want to take the responsibility of their official conduct, they should not aspire to positions of responsibility.

This war, Mr. President, came because of our promise, in whatever way it was made, which led those people to have the firm conviction that all their fighting and all their sacrifice of life were to end, through our aid to them, in their independence, and which was turned to ashes upon their lips. That disappointment, which came from the proposition embodied in the proclamation framed by the President and issued on the 9th day of January, was the inception of this war. They responded to it virtually by a declaration of war, as General Otis has told us in his report.

Mr. President, what is the nature of our title? What is the present status of the Philippine Archipelago? I should like some Senators who have viewed this case from the standpoint of the permanent retention of the islands and the theory maintained by the Administration, as I understand it, what they think our status is. Kent says a treaty alone does not operate to transfer sovereignty without actual delivery of possession. An authority upon international law says that sovereignty over a people can not be transferred without the consent of the governed. The same authority says that a treaty of cession—and that, of course, is a self-evident proposition—only operates to transfer just such dominion, and no more, as the ceding power possesses. All official reports say that Spain had nothing; the Filipino people had declared their independence and fought for it and had achieved it. It was a fact accomplished before the 10th day of December, the date of the treaty.

Aguinaldo and his government, whatever it was—and I am not talking about whether it was a government like that of Germany or Russia, or that of the Sultan of Turkey, or of some South American republic—that government, whatever it was, and however inadequate and unjust in our view of things we may say it was, had control of all the islands and dominated even Manila. Spain had lost everything beyond all power of recovery if we had not taken the cession from her, if we are to believe Merritt and Greene and Otis and people who are competent to speak by reason of their knowledge of the situation. On the 10th of December, when the treaty was made, the President himself, in a proclamation which he issued, I believe dated the 23d of December, gave direction to extend the military authority to every part of the islands which we did not have. If possession, actual delivery of cession, is essential to sovereignty over a people, then we have not yet dominion. Spain delivered to us what she had, which would be properly represented by zero. Our sovereignty to that attached, whatever it was.

Nations in their international relations, according to a low standard, expressed by some writers upon international law, are in a state of lawlessness. Then nothing is right which can not be enforced; nothing is wrong which can not be punished. If a nation is strong enough, it can wage war and subjugate and assert its authority over any land and any people, according to its own sweet

will. Of course in that sense the United States had the right, according to that debased and sordid standard, although it acquired nothing by purchase and transfer of Spain, because she had nothing to transfer, because we were powerful and those people feeble, to send our Army there in sufficient force to coerce obedience or cause extermination. But when we inaugurated that campaign, not of peace but of war, we inaugurated it upon a basis which in justice and morality can not be defended by any right-thinking man.

I state, in the first place, Mr. President, that these people are not rebels. They have never acknowledged allegiance to the United States, and that is a prerequisite to rebellion. Breach of the solemn pledge made to uphold the laws of a country is involved in the charge of rebellion. They are but a belligerent people, fighting in self-defense against a war of subjugation waged by us against them. When will that war end? I do not know whether the Senator from Wisconsin intends that his bill shall take effect next year or whether he expects it to take effect during our lifetime or three hundred years hence, when all insurrection in those islands is completely destroyed. Then, and then only, is this bill to take effect.

In the argument made by our peace commissioners in Paris to the representatives of Spain in trying to negotiate this treaty it was said that these people had been in continuous rebellion against Spanish authority for more than three hundred years. Spain's commissioners answered by saying, "That is true, and here are the sacrifices which we have made against our own welfare." Men who have been there, distinguished officers whose letters I have read, say that the war is not ended, and that in their opinion it will never end. So, perhaps the Senator from Wisconsin really intends to content himself with recognition that a state of hostilities does exist there, and never expects the bill otherwise to go into operation—

Mr. SPOONER. Will the Senator from Utah permit me?

Mr. RAWLINS. Certainly.

Mr. SPOONER. I think the Senator expressly consented to a state of hostilities over there long, long ago, when he voted, with full knowledge of the purpose, to increase the Army at the last session of Congress, knowing that that increase was for the purpose of enabling the President to send troops to be employed as they have been employed. Am I wrong about that?

Mr. RAWLINS. I stated in the beginning that there had been no direct and express recognition of a state of hostilities. A proposition to relieve temporarily the men whose terms of enlistment had expired was before Congress. They were to be retained there unless their places could be supplied by enlistments made by increase of the Regular Army. We voted for that increase. That, in my judgment, was not any more a declaration of war against the people of the Philippine Islands than it was a declaration of war against the people of Cuba, because a large share of that Army, it was then known, would go to Cuba to aid in the preservation of order. It was no more a war against the Filipino people than it was against any other nation with whom we might be at peace.

Mr. SPOONER. Will the Senator permit me?

Mr. RAWLINS. Certainly.

Mr. SPOONER. The Senator apprehended, did he not, when the Army bill was before Congress and he voted for it, that a large

portion of those troops provided for were to be sent to the Philippines? Did he suppose they were to be sent there for a picnic or a fight? They were, of course, to relieve troops whose terms had expired, but the supply of men provided by that bill was vastly in excess of that requirement. Will the Senator say that he did not expect those troops to be employed in military operations in the Philippines? And if it was a vile and outrageous crime against liberty, I do not know how the Senator finds justification for his vote in favor of that bill.

The Senator from Massachusetts, stating here upon the floor in open Senate that those troops were to be employed against the Filipinos and his unwillingness that they should be employed, registered his vote against it. The Senator will permit me, and I only take advantage of this occasion inasmuch as he mentioned me, because I sat before him, but I am unable to discover upon what theory of justice it is that the Senate and House of Representatives can raise an army by solemn vote and then criticise the President for using it as they intended that he should and as they expected he would.

Mr. RAWLINS. The Senator asks me whether I expected the Army would be used for a fight or for a frolic. I do not know what may have operated in my mind in that particular respect; whether I expected the Army would be used for a frolic or a fight or a foot race; but I do remember distinctly the circumstances under which that measure came before Congress. I do remember that the venerable chairman of the Committee on Military Affairs made a statement of the situation, and in that statement—I believe it was in the month of February, just prior to the adjournment—he pointed out the fact that the terms of enlistment of the regulars and of the volunteers proper would expire the moment the ratifications of the treaty with Spain were exchanged, and that the President of the United States, after that event had been proclaimed, would not think for one moment of ordering those volunteers into the trenches; that that army was then in that far-distant land and hostilities had been provoked; that the lives of those volunteers and others in that island, by reason of the acts which had already taken place, unless sufficient force was maintained there, would be in peril.

We were informed that it was necessary as a matter of self-defense, to save the lives of our volunteers, that men should be sent over there; and I do not know whether I voted for that measure or not, but if I did vote for it I voted for it for that reason. Since I cast that vote I have gone more in detail and have been able to ascertain more fully the facts bearing upon the situation, and I am free to say that I do not regret that I did cast that vote, because in spite of the measure which we then passed, the authority which we gave to the President to raise additional troops, those volunteers were ordered into the trenches after the terms of their enlistment had expired.

The Senator insinuates that I say that those acts over there by the soldiers were unholy and cruel and wicked. I said no such thing.

Mr. SPOONER. I did not say that. I spoke of what you called the war upon that people. I beg the Senator to be just. I did not impute to the Senator any observation or criticism of any act of the soldiers over there. He must know that. My observation was elicited entirely by the question which the Senator put to me as to whether there was not a subtle purpose in a line of this bill to

recognize the existence of hostilities over there; and I rose simply to call the attention of the Senator to the fact that the existence of hostilities over there was recognized long ago, not only by Congress but by the Senator when the Army bill was passed. That is all.

Mr. RAWLINS. Whatever implication there might be as to the votes which were cast for that Army bill, I have already sufficiently answered it. The Senator did say and wanted to know how I could cast my vote for that bill if I then believed that those soldiers who were thus to be raised were to be employed in a cruel, ruthless, unholy war. I say that I had no right to believe, had no right to expect, from the information which we then possessed, that the President of the United States would employ any part of this army in a cruel, unwarranted, and remorseless war. I have never yet charged that the President intended to do that. But what I did say is that we demanded the cession of those islands from Spain to the United States—we did not do it; but the President and his commissioners were informed by Merritt, by Bell, and others that the result of that transaction would inevitably mean war, and that as a consequence of that, our troops being over there, war was precipitated.

Whose fault it was I do not care now to inquire. Who fired the first gun I do not care to inquire about. The situation was at the time that bill was before Congress that there was armed conflict between forces over there, and that to save the lives of our men they undoubtedly had to act at that time in self-defense. I did not imply by my action then that this army should be affirmatively and aggressively used for the extermination of that people or to wage a remorseless, unholy, and cruel war. I do not make that charge now, but I did vote, and I would perhaps vote again under similar circumstances, for sending soldiers to any place where American citizens or American soldiers might be, to be employed in defense of their lives.

Mr. President, whatever may come of this war, certain it is that it has made plain to the world the sterling stuff of the American volunteer. No propitious climate invited him to the contest. The jungles did not open to make for him a pathway, nor did the water divide in order that he might pass over dry-shod. He was not faced by a foeman worthy of his steel. He could not have been inspired by the enthusiasm or actuated by the spirit which prompted him to enter the service of his country for the sake of humanity. Never did conditions, moral or physical, more adverse confront human soldiery; and yet these men never faltered. Day after day, hour after hour, both night and day, they added glory to glory, triumph to triumph. The maxim of the soldier is, "My country; may she ever be right; but right or wrong, my country." The maxim which ought to animate statesmen and lawmakers is, "My country; to continue her in the right; but if in the wrong, to help set her right." That is the answer which I make to the statement of the Senator.

Now, Mr. President, this proposition involves another consideration of far-reaching importance. I have said that I am opposed to this programme because, in my opinion, it does not look forward, but carries us backward to the scenes of despotism. When I speak I speak without impugning the motive of anyone. I am an expansionist. I believe in it by natural and peaceful processes. The progress of our people is natural and inevitable. An artificial barrier can not be set to that progress. I make no question of

that kind. But here is a question involved which is of very deep and very great importance—the question involved in the sale and transfer of vast numbers of people.

Mr. President, the density of population of the Philippine Archipelago is twice as great as that in Illinois or in Indiana. It is twenty or thirty times as great as the territory west of the Mississippi, between the Mississippi and the Pacific Ocean. It is teeming with people. There is no vacant territory there. There is nothing there upon which Americans can build homes.

On the other hand, upon this side of the shores of the Pacific there are undeveloped resources. There are riches beyond all comprehension which need only the application of capital and the touch of industry to develop. We can well afford to open more tunnels and sink more shafts to touch the inestimable treasures of mineral which lie everywhere throughout that vast section of country. We have but to husband its waters and reclaim the arid wastes and build sugar factories. Those things will give employment to labor and build homes for the American people.

Mr. President, there is no such resource in the Philippine Archipelago. On the contrary, for three hundred years scarcely enough people from other nations have been going there to be worth mentioning. A few thousand and you have told the whole story; 100,000 Chinamen, and the mixture and combination of races which was depicted by the junior Senator from Massachusetts.

But we are repeating history, Mr. President. More than one hundred years ago, just prior to the time when this Government of ours was established, Great Britain set out on a programme somewhat similar to that, and I want to read briefly a description of that policy which is not dissimilar to that which is now presented for our consideration. I read a description of it as given on page 449 of the Works of Edmund Burke, Volume II. Speaking with reference to Great Britain in its relation to India, he said:

The next sale was that of the whole nation of the Rohillas, which the grand salesman, without a pretense of quarrel, and contrary to his own declared sense of duty and rectitude, sold to the same Sujahlul Dowlah. He sold the people to utter extirpation for the sum of £400,000. Faithfully was the bargain performed on our side. Hafiz Rhamet, the most eminent of their chiefs, one of the bravest men of his time, and as famous throughout the East for the elegance of his literature and the spirit of his poetical compositions (by which he supported the name of Hafiz) as for his courage, was invaded with an army of an hundred thousand men and an English brigade.

This man, at the head of inferior forces, was slain valiantly fighting for his country. His head was cut off and delivered for money to a barbarian. His wife and children, persons of that rank, were seen begging a handful of rice through the English camp. The whole nation, with inconsiderable exceptions, was slaughtered or banished. The country was laid waste with fire and sword; and that land, distinguished above most others by the cheerful face of paternal government and protected labor, the chosen seat of cultivation and plenty, is now almost throughout a dreary desert, covered with rushes, and briers, and jungles full of wild beasts.

The British officer who commanded in the delivery of the people thus sold felt some compunction at his employment. He represented these enormous excesses to the president of Bengal, for which he received a severe reprimand from the civil governor.

Further, other transactions in which people were sold are here given:

In Bengal, Surajah Dowlah was sold to Mir Jaffier, Mir Jaffier was sold to Mir Cossim, and Mir Cossim was sold to Mir Jaffier again.

And so on, giving a large number.

All these bargains and sales were regularly attended with the waste and havoc of the country—always by the buyer, and sometimes by the object of the sale.

Mr. President, by reason of these examples, these frightful consequences of undertaking to make the destinies of millions of people depend upon transactions of barter and sale—the frightful consequences flowing over that have, according to the author on international law that I have cited, led in modern times to the well-settled principle founded upon intrinsic justice and sound morality that such things can not lawfully and morally be done in accordance with the principles of international law except with the consent of the governed. We are having repeated now at this, the end of the nineteenth century, the experience which came to Great Britain at the end of the last century, and which has made her rule in India a blight and curse to all its people.

Mr. President, the Senator from Massachusetts claims that, conceding everything else, these islands would be of great benefit to us commercially. He said, as I understood him, that by reason of our possession of those islands our diplomatic officers were enabled to obtain the open door to China, and the Senator paid a glowing eulogy to the present Secretary of State, pointing to that as being a grand consummation of his diplomatic skill.

Mr. President, I can not regard it as does the Senator from Massachusetts. It seems to me to be a triumph of English and not of American diplomacy. The policy of free trade at home and free trade everywhere has been the policy of Great Britain. In the open door in China, Great Britain and Germany and Russia have no sympathy with the myriads of people in that vast Empire. That sovereignty, if it pleases, in accordance with every principle of justice and international law, is entitled to have a tariff barrier around her shores, or she is entitled to tear it down, as in accordance with her own interest she may think proper and best. But what right has Russia, what right has a great trust of nations like Russia, Great Britain, and Germany, to say we will form a conspiracy and say to the Emperor of China and those people: "Obey our behests and tear down your tariff wall?"

It is a precedent to which I can not give my sanction, worthless though that may be. I can not give my sanction that this country shall enter into a combination and conspiracy to dictate to other and feebler nations, as the result of the gigantic power of a combination or a trust of nations, that their right to control their own affairs and levy their own taxes to subserve their own interests they shall not possess.

Mr. President, this is not the triumph of American policy. This is the triumph of British policy. England and Germany have given us nothing and can give us nothing morally in China. They can not give us freer access to any parts of the markets of that vast number of people. They give us nothing; but if we recognize the Philippine Archipelago as a part of our territory, they have by their combination, their spheres of influence over the diplomatic representatives of the United States, laid down the position that we are to take down our tariff barrier—tear it down to the ocean level.

Mr. President, if we keep the Philippines we are to add the expense of a vast army which for an untold length of time in the future must be kept there on police duty at least. If we are to believe the statements made by the proponents of the policy, which is now under consideration, they are to exercise police patrol, protecting Aguinaldo from Artacho or Artacho from Aguinaldo. The burden of the expense of all this to fall upon the taxpayers of the United States.

Our merchants and our traders and our producers in those islands, and for that market with our merchants and producers of Great Britain, of Russia, and of all other countries. They get the benefit and That is the sum of that transaction, if it is to be carried.

It is similar to that other matchless achievement of diplomatic skill of our Secretary of State, the Hay-Pauncefote. In that case we are graciously accorded by Great Britain and European nations the right to construct and maintain at our own expense and principally for the benefit of Great

Mr. President, these are all departures from the great principles and policy and traditions of our Government. I see nothing, so far as commerce or money making is concerned, to invite us to go on with this policy which is outlined for us. I think it is detrimental and destructive of all our best interests material; I think it is destructive of all our best interests social and political.

The distinguished Senator from Massachusetts likened himself, as did Sir Isaac Newton, another distinguished philosopher whom he did not name, to a little child playing upon the seashore, now and then diverting himself by finding a brighter pebble than ordinary, while the great ocean of truth lay unexplored before him.

Mr. President, when I read over that speech, three hours long, I could not conceive how the Senator thought he was not perfectly familiar with all that is in the air, and all that is upon the land, and all that is in the sea. I believe actually if the Senator should stand upon the seashore and think about the situation, he would come to the conclusion that he could make an improvement upon the handiwork of the Almighty. I think he would conclude that he could dictate and prescribe better laws to control the life of the finny shoals of the mighty deep, and I think he might come to the conclusion that if in prescribing those regulations there should be any disturbance, the explosion of a stick of giant powder in the midst of the finny tribes would calm their fretful, finny souls.

Mr. President, as I read that speech and as I heard part of it, the Senator seemed to me like a man standing upon the housetop ready to hurl a deadly missile into a crowded thoroughfare, reckless of all consequence. He says that certain races have an ineradicable tendency to favor despotism. I believe the Senator takes pride in the fact that a few years ago he was the author of the force bill. More than a third of his speech was devoted to the pulverization of the keystone in the arch of liberty. He wants to cut loose from the Constitution, if I understood him rightly, and govern many millions of people without their consent.

He wants to know where the principle of the consent of the governed begins to operate. He says if it is sacred to all, it must be sacred to one; and he wants to know at what point in the census the principle begins to operate. If it does not operate with one, it can not operate with 30,000. If it can not operate with 30,000, it can not operate as to 10,000,000; and if not as to 10,000,000, then it can not operate as to 100,000,000. Thus he strikes away the foundation upon which our free institutions rest. He goes back to the principle of the Holy Alliance, and by his logic lands dangerously near the divine right of kings to rule people without their consent.

Ah, Mr. President, the Senator says that all born east of Constantinople have an ineradicable, a racial tendency to despotism. If we are to believe what he says, he must have had his birth east



... living example of the incorrectness of
... you catch a Hottentot young enough to
... a process of education you may make out of him

... nt, I can not see how the Anglo-Saxon or the Cau-
... any right to obtrude a despotic sway over the Asiatic
... ay. No more could I see how some great mogul of Asia
... nd, as they attempted to do in the middle ages, a des-
... y over the Caucasian.

... says Emerson, has its scale of degrees, but it is difficult to
... degree that is positive. It is beyond the purview
... of mortals to say that any particular degree or con-
... is the proper one, and that all men must conform to
... lie may become like the surface of a tranquil ocean. The
... s+ ideal of happiness of one man may, on the contrary, differ
... rom that of another equally intelligent, and how much more is
... hat true of races.

The peasant is pleased to follow the plow; the sailor, to plow the
main with his bark; the soldier, to yield obedience to his com-
mander and rush unconsciously upon the pointed steel; the shep-
herd, to recline upon some eminence and cast his sluggish eyes
upon his grazing herds; the smith delights to forge the metal and
see become plastic in his hands; the heathen thinks he can read
in puny relics of wood and stone the divine essence of the gods,
and delights to supplicate that he may participate in the joys of
some blissful realm delineated by the pencil of his own imagina-
tion.

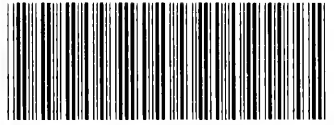
Every Christian has his own peculiar ideas concerning present
and eternal happiness. The fact is that no two men, no two
races think alike, reason alike, or hope alike. The thoughts and
hopes of men are suggested by the scenes they view, the air they
breathe, the land they dwell upon.

Mr. President, we can not rule Asiatic peoples to their advan-
ce and without detriment to ourselves. Nature revolts at the
idea. Hence I say that to carry out this policy is destructive of
the best interests, material, moral, social, and political, of both
the people of the United States and the people of the Philippine
Islands.

These words may fall on deaf ears. A fatal fascination for
power may prevail.

The time flies of imperialism flutter their dilletante wings in
in wild delight at every panegyric of power, at every fulsome adu-
lation of those who have gifts to bestow and patronage to dis-
pense. And so it has ever been.

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